

Exhibit 66

Bochenek Deposition

Frank Bochenek

Pages: 31, 32, 35, 36, 40, 41, 42, 43, 44, 52, 53, 54, 55,
56, 57, 61, 62, 66, 70, 71

Dated: May 5, 2021

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES JOSEPH FREITAG,	:	NO. 2:19-cv-05750-JMG
JR., as Administrator of	:	
the ESTATE OF CHARLES	:	
JOSEPH FREITAG, SR.,	:	
Plaintiff	:	
	:	
vs.	:	
	:	
BUCKS COUNTY; PRIMECARE	:	CIVIL ACTION - LAW
MEDICAL, INC.; STEPHAN	:	
BRAUTIGAM, PMHNP;	:	
JESSICA MAHONEY, PSY.D.;	:	
AVIA JAMES, LPC;	:	
CHRISTINA PENGE, LPC;	:	
CORRECTIONAL OFFICER	:	
MOODY; CORRECTIONAL	:	
OFFICER MURPHY; and	:	JUDGE JOHN M. GALLAGHER
CORRECTIONAL OFFICER	:	
YOUNG,	:	
Defendants	:	

ZOOM DEPOSITION OF FRANK BOCHENEK

DATE AND TIME: Wednesday, May 5, 2021
at 2:30 p.m.

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1 Q. When you say recording, you're referring
2 to an audio recording?

3 A. That is correct.

4 Q. And I -- I think what you said is that's
5 their usual practice. You don't know whether that
6 happened in this case. Is that correct?

7 A. That is correct. I was not present for
8 this. I don't know.

9 Q. Now, we know from other documents -- it's
10 not described here -- that -- but we know that Mr.
11 Freitag was on a watch, a Level 3 watch at the time of
12 his suicide. Were you aware of that, sir?

13 A. I learned of that after the incident.
14 Yes.

15 Q. Now, after -- I know that you were
16 involved in some discussion -- let me strike that for one
17 second and take this document down. I know that you were
18 involved in a discussion about the watch levels in
19 October of 2019. When between the death in August of
20 2018 and October of 2019 did you first learn that Mr.
21 Freitag had been on a watch status at the time of his
22 death?

23 A. I learned shortly after the incident
24 that he had been placed on a watch status.

25 Q. So that -- I took the document down with

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1 the interview, but I know that you've read it recently so
2 can we agree that it appears that Officer Young --
3 neither Officer Young nor Officer Moody were asked about
4 whether they had conducted any watch of Mr. Freitag?

5 A. Yes, I don't know.

6 Q. So yes, they were not asked and no, you
7 don't know why. Is that correct?

8 A. No, I'm sorry, that's incorrect. I
9 confused you. I do not know if they were asked, and I
10 do not know. I wasn't present.

11 Q. Okay. Great. Well, and we agree that
12 there's -- if they were asked, that you would expect it
13 would be referenced in the Investigation Report. Is that
14 correct?

15 A. Correct.

16 Q. And since it's not there, you can at
17 least draw the assumption that they were not asked. Is
18 that correct?

19 A. Correct.

20 Q. And assuming that that assumption is
21 correct, it sounds like you don't know why they were not
22 asked. Is that correct?

23 A. Correct.

24 Q. Now, I know -- it sounds like the
25 immediate focus of the investigation was to determine

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1 Q. Right, and I take it that's -- remains
2 your conclusion today, you've never seen any -- anything
3 to the contrary. Is that correct?

4 A. Correct.

5 Q. Once the determination was made that it
6 was a suicide, was there -- and which sounds like it was
7 made pretty -- pretty quickly on -- on that day. Is that
8 correct?

9 A. Yes.

10 Q. Once that determination was made, was
11 there any other purpose for your investigation?

12 A. I -- I don't understand what you mean,
13 any other purpose.

14 Q. Let me ask it this way. Yeah. Once the
15 -- once you knew it was a suicide, was there anything
16 else that you had left to do in your investigation?

17 A. Well, there was -- we believed that it
18 was a suicide, and until all the documents were
19 received, the Coroner's report and all the other
20 subsequent, then we concluded that it was definitely a
21 suicide. But till that point in time, we continued to
22 interview and look at different aspects to make certain
23 that there was no other involvement.

24 Q. Got it. All right. And I take it that
25 the key conclusion that you would have received would

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1 have been the finding of the Medical Examiner, who
2 concluded that it was a -- was a death by suicide. Is
3 that correct?

4 A. That's correct.

5 Q. Once you had that conclusion, was there
6 any other purpose to your investigation?

7 A. No, sir.

8 Q. I want to come back to the point we
9 discussed before about whether you looked into any
10 officer conduct. And let me ask that question by
11 focusing specifically on this. You mentioned to me that
12 you learned that Mr. Freitag was on a -- a watch;
13 correct?

14 A. Correct.

15 Q. How did you learn that, by the way?

16 A. Through the OMS records that it was
17 indicated he was on a Level 3 CMHS regular watch with
18 observation.

19 Q. Were you aware -- well, strike that.
20 Given that you were not assigned to work on a housing
21 module or supervise officers on a housing module, did you
22 have under -- any understanding as to what officers'
23 obligations were to comply with watch procedures?

24 A. Specifically, no, but I do know that
25 under their routine, so to speak, or their job

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1 '18 and October of '19?

2 A. The investigation was being conducted by
3 Onisick and Disandro, and I was just reviewing it. I
4 was referring information to the Director and Deputy
5 Director my concerns about, first of all, the cup, also
6 about watch status, how confusing they were, and that
7 they should be looked into.

8 Again, the watch statuses and those
9 procedures did not fall under investigations, so that
10 wasn't my area of investigating whether or not they were
11 done correctly. That would be falling under the
12 Administration.

13 Q. And let's look at your memo from October
14 of 2019. And I want to ask about the precursors to this
15 memo in a little bit, but first I want to highlight one
16 sentence in the middle of the document.

17 (Exhibit shown.)

18 First of all, let's confirm, Exhibit P-10,
19 is this your memo?

20 A. Yes.

21 Q. All right. Now, there's a dark line that
22 appears on it. We're not exactly sure where that came
23 from. It appears to be an artifact of the way this
24 document was produced, so I'll ask you to disregard that.

25 It sounds like -- strike that. Let me --

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1 let me ask would you agree. You were asked some
2 questions in a meeting with Lindsay Hayes, Emily
3 Scordellis and Dr. Abbey Cassidy, and then you wrote a
4 memo about the conversation that ensued. Is that
5 correct?

6 A. Correct.

7 Q. The question was -- and that's what's
8 highlighted -- and I take it that you're referring to a
9 question that was posed by Mr. Hayes. Is that correct?

10 A. Correct.

11 Q. The question was, Did the investigator
12 look into the watch issue and check with the Module
13 Officers to see if the watch was put into place. Is that
14 the question that you were asked in October of 2019?

15 A. That's correct.

16 Q. You then wrote, Investigators did not
17 look into the issue. Did I read that correctly?

18 A. Correct.

19 Q. So it sounds like that when you wrote in
20 October of 2019, that no one had looked into this
21 question of watch. Is that correct?

22 A. Well, there was discussion about that.
23 That's how I learned how the -- the -- the -- the watch
24 was issued to him. He was placed on the watch, but it
25 was no investigation. It was just a question with the

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1 Administration, where it was or how it came about.

2 Q. At any point before October of 2019, did
3 the -- and by the way, when you -- and I'm sorry, let me
4 start over. You -- it sounds like what you're describing
5 is some kind of interfacing with the Administration. Is
6 that correct?

7 A. Correct.

8 Q. Would that be the Director?

9 A. That would be the Director and Deputy
10 Director, yes.

11 Q. Director Pirolli and who's the Deputy
12 Director?

13 A. David Kratz.

14 Q. Kratz, K-R-A-T-Z?

15 A. Correct.

16 Q. Yeah. What -- what it sounds like you're
17 describing is that there's some kind of discussion at
18 some point with both Director Pirolli and Deputy Director
19 Kratz; correct?

20 A. Correct.

21 Q. At any point between August of 2018 and
22 October of 2019, did either of those men say to you,
23 look, Mr. Bochenek, we gotta find out whether the
24 officers did their job in this case?

25 A. Not -- not directly. I reported to them

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1 the findings of the video review.

2 Q. And that -- those findings were reported
3 in October of 2019. Is that correct?

4 A. And also, I think, before that, back --
5 I think Mr. Onisick also indicated the review of the --

6 (Court Reporter interrupted.)

7 I also believe that Mr. Onisick had
8 indicated in his report or review of the video showing
9 that the officers were doing their rounds. As far as, in
10 particular, for the watch itself, no. We did not look
11 into that, per se, because it wasn't under our
12 Administration. It was under the Administration, not
13 under investigations.

14 Q. Got it. Okay. So it sounds like then
15 that no one in the Administration asked you to look into
16 it. Is that correct?

17 A. Correct.

18 Q. When I say it, I'm referring to whether
19 the Inmate Monitors were looking into the cell as
20 required under the watch. Is that correct?

21 A. That's correct.

22 Q. And you did not affirmatively take the
23 step of looking into that until you had this meeting with
24 Lindsay Hayes in October of 2019. Is that correct?

25 A. I believe so, yes.

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1 Q. If anyone would have been responsible to
2 looking into the question of whether the officers had
3 done their job, that would have been the Security
4 leadership. Is that correct?

5 A. That's my understanding, yes.

6 Q. Captain Durning, was it?

7 A. Initially, but at that time it was
8 Captain Landis who was the captain at the time.

9 Q. At which time, October of 2019?

10 A. Of '18 when the -- when the unfortunate
11 incident occurred.

12 Q. Got it. And you don't recall any
13 discussion with either Captain, whatever the time period,
14 about the monitoring. Is that -- about the Inmate
15 Monitor position. Is that correct?

16 A. Yeah, I don't -- I -- I do not recall,
17 yes.

18 Q. Before this case occurred with Mr.
19 Freitag, did you have any knowledge as to how the
20 monitoring procedures were supposed to work?

21 A. No, sir.

22 Q. Is this case the first situation with --
23 well, strike this -- strike that. So do I understand you
24 correctly that it was only in connection with this case
25 that you learned about what was supposed to happen with

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1 Q. I think we got on this topic by talking
2 about complaints that you heard over the course of your
3 career that Inmate Monitors were not doing their jobs
4 properly. Am I remembering correctly that you said that
5 you heard occasional reports like that?

6 A. Yes.

7 Q. Did you ever hear reports about Inmate
8 Monitors falsifying information on their monitor forms?

9 A. I wanna say I have, but I can't say
10 anything in particular what I recall of the incidents.

11 Q. And do you recall any conversation about
12 those -- about those incidents, about how you would need
13 to -- there was a need to address those falsifications,
14 increase supervision, anything like that?

15 A. I do recall conversations about that,
16 but whom and what I can't -- I don't know exactly who.

17 Q. I mean, at the risk of stating the
18 obvious, sir, if an Inmate Monitor is supposed to observe
19 a prisoner and then falsifies a report, that's a
20 significant concern; right?

21 A. I agree.

22 Q. The Inmate Monitors are -- are there for
23 a reason; right?

24 A. Correct.

25 Q. Their job is to make sure that a person

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1 who might be at risk of hurting him or herself or maybe
2 they're going through detox and have medical situations,
3 the Inmate Monitor's job is to call attention to
4 Correctional staff or Medical staff if it's needed. Is
5 that correct?

6 A. That's correct.

7 Q. So if an Inmate Monitor is writing false
8 information about an observation when they're not
9 actually conducting the observation, that's something
10 that would be of great concern to Bucks County. Is that
11 correct?

12 A. I agree.

13 Q. Am I correct then in understanding that
14 no one -- that prior to October of 2019, no one connected
15 these dots that you did when you looked at the video
16 after your conversation with Mr. Hayes?

17 A. I'm not aware.

18 Q. You're not aware of anyone making that
19 conclusion. Is that correct?

20 A. Correct.

21 Q. And I'll represent to you, sir, that the
22 only document that I've seen and -- well, strike that.
23 Let's back up. Can we agree that anytime there's a death
24 or a suicide in the prison, with the investigation that
25 follows there's fairly extensive documentation that's

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1 prepared. Is that correct?

2 A. That is correct.

3 Q. The purpose of that documentation is to
4 figure out what happened and make a record of it. Is
5 that correct?

6 A. Correct.

7 Q. And you can draw -- when I say you, I
8 mean the Administration in general, can draw lessons from
9 what happened. Is that correct?

10 A. Correct.

11 Q. And can use those lessons to try to
12 prevent, as you've described it, unfortunate incidents
13 from happening again. Is that correct?

14 A. Correct.

15 Q. So if there was any investigation into
16 the specifics that you and I have been reviewing for the
17 past ten minutes or so about Inmate Monitors, you would
18 expect it to have been documented. Is that correct?

19 A. Correct.

20 Q. I'll represent to you that the only
21 document that I've seen produced by your attorneys or any
22 other party in this case about the Inmate Monitor issue
23 was produced in October of 2019. Do you understand that
24 representation?

25 A. I do.

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1 Q. Do you have any reason to dispute that
2 representation -- or strike that. Would you agree that
3 there are no -- there appears to be no other
4 documentation of any investigation into this issue prior
5 to October of 2019?

6 A. I believe that's fair to say.

7 Q. Do you know why that is?

8 A. I do not.

9 Q. And, once again, if anyone would have
10 been responsible for conducting this specific
11 investigation prior to October of 2019, it would have
12 been the Captain of Security. Is that correct?

13 A. That would be correct.

14 Q. By the way, one other topic and this may
15 fall outside your -- your coverage. I just took the
16 testimony of Deputy Superintendent Kelly Reed. Ms. Reed
17 was likely not in that position -- well, no, she would
18 have been in that position before you retired. Do you
19 know Ms. Reed?

20 A. I do.

21 Q. Ms. Reed recalled for me that throughout
22 the course of her career she heard a number of different
23 complaints from Correctional Officers that they were not
24 able to comply with their watch obligations because they
25 had too many responsibilities. First of all, do you

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1 understand how -- what I've described there?

2 A. I do believe I understand that.

3 Q. Did you ever hear any complaints like
4 that yourself in your position?

5 A. I've heard a lot of complaints from
6 staff saying they couldn't fulfill their duties of a lot
7 of things, so yes.

8 Q. When you say a lot of things, are you
9 talking beyond watch procedures?

10 A. Yes.

11 Q. What was the nature of those complaints?

12 A. In general, they're saying that they had
13 too much -- too many duties and too many
14 responsibilities to fulfill everything, but that was a
15 complaint from all staff --

16 Q. A complaint from --

17 A. -- in general.

18 Q. A complaint from all staff that you heard
19 all the time. Is that correct?

20 A. In general, yes.

21 Q. Do you recall specifically anyone in the
22 Administration concluding or saying that we need to
23 address those complaints because it's preventing us from
24 keeping prisoners safe?

25 A. I have -- I didn't hear that, but I have

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1 heard talk that they have to review and improve the
2 situation.

3 Q. Are you aware of any steps that were
4 taken to improve that situation?

5 A. I am not.

6 Q. I want to ask you more specific questions
7 about the meeting with Lindsay Hayes. And for that
8 purpose, I'm going to pull up the memo that we were
9 reviewing before, Exhibit P-10. As I'm doing that, sir,
10 do you recall actually being present with Mr. Hayes for
11 purposes of a meeting?

12 (Exhibit shown.)

13 A. I was in the room with a group of
14 others, yes.

15 Q. How many times did -- did you meet with
16 Mr. Hayes?

17 A. In regards to this, it's the only time.

18 Q. So the memo which you have in front of
19 you, Exhibit P-10, do I understand correctly that the
20 only time that you met with him was on October 23rd of
21 2019?

22 A. Correct.

23 Q. How did that meeting come about -- or I'm
24 sorry -- more specifically, how was it that you ended up
25 in the meeting? Who invited you is really what I'm

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1 incident, which sounds like your focus was on whether
2 there was a crime; right?

3 A. Correct.

4 Q. You then looked and you saw that he had
5 been placed -- he meaning Mr. Freitag -- had been placed
6 on watch at 1500, 3:00 p.m. on Friday. Is that correct?

7 A. Correct.

8 Q. Then you conducted a follow-up
9 investigation. Is that correct?

10 A. Correct.

11 Q. The statement no Level 3 watch sheet,
12 what -- what does that mean?

13 A. The Inmate Monitor watch sheet.

14 Q. Now, we -- is that the same document that
15 we were looking at, Exhibit P-9?

16 A. No, there was one prior to that that was
17 no -- not found.

18 Q. Got it. Okay. So there's one that's
19 supposed to be prepared for each shift. Is that correct?

20 A. That's correct.

21 Q. So there would not have been -- there was
22 not an inmate or Level 3 watch sheet prepared for the
23 afternoon or evening shift of August 24th; correct?

24 A. We don't know if it was prepared or not,
25 but there was no one -- no report was ever found. So I

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1 don't know if it was done or not. I can only assume it
2 was not.

3 Q. Got it. Where are those reports supposed
4 to be kept?

5 A. Initially -- that -- that's always been
6 a question which was very difficult to pin down. It was
7 -- my understanding, it was with the Administration in
8 Ops -- in Operations or it was in the Mental Health
9 office, or it was in PrimeCare Medical office. The
10 sheets were always sent to different -- three different
11 units, my understanding, and that added to the confusion
12 of trying to obtain copies of documents.

13 Q. Who -- who -- who would make the decision
14 about where to send the documents?

15 A. I don't know.

16 Q. So it sounds like what you're describing
17 is that there was no set procedure or at least there was
18 not a uniform understanding of the procedure of where to
19 send the watch sheets. Is that correct?

20 A. It appeared to me there was no uniforms
21 -- yes.

22 Q. Had you ever -- did you ever hear
23 anything to the contrary?

24 A. I have not.

25 Q. Let's continue on with your findings here

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1 Q. Did you specifically ask them to go
2 interview Young and Moody?

3 A. Initially, I -- I explained to Mr.
4 Onisick at the day that all the officers needed to be
5 interviewed, all staff related to this incident would
6 be, so -- but I did not specifically say go talk to
7 Moody and Young about anything in particular.

8 Q. Why not?

9 A. 'Cause I told them to go interview them.

10 Q. Well, we know they -- they were
11 interviewed back in 20- -- August of 2018 when the
12 incident --

13 A. Right.

14 Q. -- occurred; right?

15 A. That's correct.

16 Q. Now, 14 months later you realized that no
17 Inmate Monitor was checking on the cell; correct?

18 A. Correct.

19 Q. My question is why -- why didn't you ask
20 Disandro or Onisick to go back and interview Moody and
21 Young about the Inmate Monitor issue?

22 A. I have no -- no answer for that. Just
23 didn't.

24 Q. Is that something that, given your
25 position, you would have liked to have done?

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1 A. Since that time, yes. Standard
2 procedure for all Administrators were to do visual
3 tours, when they could, to double check and make sure
4 that officers are following their duties and performing
5 their duties, their assigned duties.

6 Q. So that's since October of 2019?

7 A. Yes.

8 Q. Was there any document issued or any
9 directive issued requiring those visual tours by
10 supervisors?

11 A. I don't recall any documents, but I do
12 know that there was some type of correspondence to the
13 Administrative staff to -- to conduct these, what they
14 call, video tours -- visual tours of the modules.

15 Q. I'm sorry, did you say video tours or
16 visual tours?

17 A. Video tours, I'm sorry. They are video
18 tours.

19 Q. Does that mean reviewing video
20 surveillance footage?

21 A. That is correct.

22 Q. Do you recall when that correspondence
23 was issued?

24 A. I don't recall.

25 Q. And do I understand you correctly that

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1 that practice of video tours was instituted following the
2 October, 2019 interaction with Lindsay Hayes?

3 A. Correct.

4 Q. Was there -- and it sounds like you're --
5 is it your understanding that that practice was
6 instituted as a result of the discussion with Lindsay
7 Hayes concerning the Freitag case?

8 A. I don't recall if it was specifically
9 regarding that interview and about the Freitag case, but
10 I do know that that was a concern and that was a
11 directive put out.

12 Q. Do you remember who issued the
13 correspondence?

14 A. I believe it was Deputy Director Kratz.

15 Q. And do I understand correctly that prior
16 to the correspondence that you believe came from Deputy
17 Director Kratz, there was no such practice requiring such
18 video tours? Is that correct?

19 A. I believe there was no such requirement,
20 but that it was spoke about that Administrators should
21 conduct these tours.

22 Q. Jeff, I'll just note that to the extent
23 that correspondence exists, I'll -- I'll make that a
24 discovery request. I'll confirm that in --

25 MR. KOLANSKY: Made note of it. Yeah, do